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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,908	06/25/2003	Robin Birns	47322-0003	4360

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EXAMINER

PATEL, TAJASH D

ART UNIT PAPER NUMBER

3765

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/603,908		BIRNS, ROBIN	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tejash D Patel		3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Neviaser et al. (US 5,347,669). Neviaser et al. (hereinafter Neviaser) discloses an infant support device including an adjustable strap member (11) with a plurality of movement restrictors (3, 4) being attached thereto by hook and loop fasteners (18,20), col. 4, lines 31-53 and as shown in figure 2.

3. Claims 5, 6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by McGrath-Saleh (US 4,802,244). McGrath-Saleh discloses an infant sleep support device including a clothing article (19) with first and second hook and loop attachment members (47,47') that are opposite one another. Further, first and second movement restrictors (18a, 18b) includes third and fourth hook and loop attachment members (27, 28) respectively which attaches to first and second attachment members, respectively.

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*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neviaser.

With regard to claim 3, it would have been obvious to one skilled in the art to recognize that the hook and loop fasteners of Neviaser can be substituted with snaps, etc since such attachment means is considered equivalent in the art.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neviaser in view of Wilkinson (US 6,721,974). Neviaser discloses the invention as set forth above except for showing the plurality of restrictors being inflatable.

Wilkinson discloses a sleep support device that is inflatable, col. 3, lines 3-60.

It would have been obvious to one skilled in the art at the time the invention was made to form the plurality of restrictors of Neviaser to be inflatable as taught by Wilkinson as an alternative but equivalent means of cushioning the infant in position while sleeping.

7. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath-Saleh.

With regard to claims 7 and 9, it would have been obvious to one skilled in the art to recognize that the first, second, third, and fourth hook and loop attachment members of McGrath-Saleh. can be substituted with snaps, etc since such attachment means is considered equivalent in the art.

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath-Saleh in view of Verbovsky et al. (US 6,467,840). McGrath-Saleh discloses the invention as set forth above except for showing the plurality of restrictors being inflatable.

Verbovsky et al. (hereinafter Verbovsky) discloses a sleep support device that is inflatable, col. 6, lines 6-42 and as shown in figure 2.

It would have been obvious to one skilled in the art at the time the invention was made to form the plurality of restrictors of McGrath-Saleh to be inflatable as taught by Verbovsky as an alternative but equivalent means of cushioning the infant in position while sleeping.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

May 22, 2004



**TEJASH PATEL  
PRIMARY EXAMINER**